S.B. CIVIL WRIT PETITION NO.7397/2007

Makbool. vs. Kundanram and others.

Date : 6.11.2007

HON'BLE MR. PRAKASH TATIA, J.

Mr.SG Ojha, for the petitioner.

- - - - -

Heard learned counsel for the petitioner.

The petitioner/plaintiff is aggrieved by the order dated 28.9.2007 passed by the trial court by which the petitioner's evidence was closed by the trial court.

Learned counsel for the petitioner/plaintiff submits that one more opportunity should have been granted by the trial court.

Learned counsel for the petitioner submits that the time taken by the respondents/defendants was also taken into account by the trial court. It is submitted that it was not fault of the petitioner.

I considered the submissions of learned counsel for the petitioner and perused the reasons given by the court below in the impugned order.

The trial court observed that in all 29 opportunities were granted to the petitioner to lead evidence and thereafter, the suit was amended and thereafter, further opportunities were granted. The trial court also observed that none of the parties is interested in getting the suit decided on merits.

It appears from the reasons given by the trial court in its order that there were several adjournments sought by the plaintiff and if there was any reasonable cause, then that issue may be raised by the plaintiff before the appellate court where this factual aspect can be examined. But this Court is not inclined to interfere in the impugned order in the facts of the case while exercising the jurisdiction under Article 227 of the Constitution of India.

In view of the above, this writ petition having no force, is hereby dismissed with liberty to the petitioner/plaintiff to challenge the impugned order in appeal.

(PRAKASH TATIA), J.

S.Phophaliya